

**Mandatory Outpatient Treatment**  
**Title 33, Chapter 6, Part 6, and Tenn. Code Ann.**  
**(Civil MOT)**

The following procedures apply to those individuals who are committed under T.C.A. Section 33-7-301(b) and Title 33, Chapter 6, Part 5, Tenn. Code Ann., or T.C.A. Section 33-7-303(c) and Title 33, Chapter 6, Part 5, Tenn. Code Ann., have been found no longer committable and meet the following criteria;

- the person is mentally ill or is suffering from mental illness in remission, AND;
- the persons' condition resulting from mental illness is likely to deteriorate rapidly to the point that he/she will pose a likelihood of serious harm as defined under Title 33, Chapter 6, Part 5, Tenn. Code Ann. unless treatment is continued, AND;
- the person is **likely** to participate in outpatient treatment with a legal obligation to do so, AND;
- the person is unlikely to participate in outpatient treatment unless legally obligated to do so, AND;
- mandatory outpatient treatment is a suitable less drastic alternative to commitment.

**MOT Plan Development**

For those persons who are eligible for discharge under Title 33, Chapter 6, Part 6, Tenn. Code Ann., the MOT plan shall be developed by the RMHI in cooperation with the outpatient provider.

The RMHI staff, the outpatient provider and the person eligible for discharge must sign the completed MOT plan.

If the person is TNCare eligible, the BHO must receive and approve the proposed MOT plan. The BHO has contracts with the Community Mental Health Centers to provide for MOT.

If the person opposes the MOT plan, the RMHI shall notify the court where the hospital is located which has the same jurisdiction as the committing court.

The court shall then hold a hearing within 7 days to determine if the plan is medically appropriate and legally permissible. The court shall either approve the plan or approve the plan as modified.

If the person **does not** oppose the plan and **is not subject** to judicial review under T.C.A. § 33-6-708 then the RMHI **shall discharge the person and notify the committing court** that the person has been released subject to the obligation to participate in Mandatory Outpatient Treatment.

## **Readmission While Under Civil MOT**

If a person who was discharged subject to the obligation of Title 33, Chapter 6, Part 6, Tenn. Code Ann., is re-hospitalized under Title 33, Chapter 6, Part 4, Tenn. Code Ann., or Title 33, Chapter 6, Part 5, Tenn. Code Ann., prior to the termination of that plan, then the obligation to participate in outpatient treatment is suspended. The obligation automatically resumes upon discharge unless the MOT provider terminated the plan.

If the person is re-hospitalized on an emergency commitment prior to termination of the MOT obligation, the admitting facility shall assess whether or not the need for hospitalization occurred due to non-compliance with the MOT plan by contacting the outpatient service provider.

If it is determined that the person has been non-compliant, then the hospital should take immediate steps to hold a non-compliance hearing. Re-hospitalization for reasons other than MOT non-compliance does not automatically place the person in violation status.

If an individual is re-hospitalized after a MOT non-compliance hearing, then the person shall be held under the authority of the original court order of commitment. Any other pending proceedings under Title 33, Chapter 6, Part 4 or Part 5 shall be dismissed once the court has reinstated the original Title 33, Chapter 6, Part 5 status. (see noncompliance issues below)

## **Noncompliance**

If it is determined that a service recipient has been non-compliant with the MOT and is not likely to become compliant then the parent, legal guardian, conservator, spouse, responsible relative, or qualified mental health professional of a service recipient who has been discharged subject to the obligation to participate in outpatient treatment, the person who initiated the commitment proceeding of the service recipient, or the chief officer of the discharging facility may file an affidavit with the court that committed the service recipient or any court with jurisdiction under chapter 6, part 5 in the county where the person is being treated or is staying.

The purpose of reporting non-compliance is to get the person back into the hospital, if compliance cannot be obtained on an outpatient basis, before they deteriorate to the point that they are a danger to themselves or others and require emergency hospitalization.

Affidavits of noncompliance must specify which part of the MOT plan the person has been non-compliant with, what actions have been taken to assist the person in becoming compliant and how it has effected the person's psychiatric stability. A cover letter explaining the type of MOT and what action is expected from the court, as well as, a copy of the MOT plan shall accompany the affidavit.

If the person is, without good cause, out of compliance with the treatment plan **and** noncompliance is not likely to be corrected voluntarily, then the court has jurisdiction to conduct a hearing in order to enforce the outpatient treatment obligation. The court may schedule a hearing within five business days after receipt of the notice. The hearing is scheduled to determine whether the person is indeed required to participate in MOT and has failed to comply.

After an affidavit of non-compliance has been filed the court has the following options:

- (a) If the service recipient appears in court and it is determined that he/she has failed to comply with MOT, without good cause, but that person will become compliant without further action, then that person can be released back to MOT.
- (b) If the court determines that the person is out of compliance with the treatment plan, without good cause, and that the person **can be** put immediately into compliance with the treatment plan and can be expected to stay in compliance without further hospitalization, the court shall order the person to comply immediately and dismiss the proceedings upon showing that the person is in compliance.
- (c) If the court determines the service recipient to be out of compliance, without good cause, and that the person **cannot be** put in compliance with the treatment plan immediately or the person cannot be expected to stay in compliance without further hospitalization, then the court may order the person recommitted to the discharging facility under the original legal status (T.C.A. § 33-7-301(b) or T.C.A. § 33-7-303(c) and Title 33, Chapter 6, Part 5, Tenn. Code Ann.).
- (d) If the person does not respond to the order to appear, then the court shall order the person taken into custody and transported to the discharging facility. The hospital shall admit the person and give notice of the temporary recommitment and that a non-compliance hearing under T.C.A. § 33-6-610 will be held to the person's attorney, legal guardian, legal custodian, conservator, and spouse or nearest adult relative, to the qualified mental health professional, to the court which ordered the temporary recommitment of the person, and to the court where the hospital is located which has the same jurisdiction as the committing court.

If someone other than the qualified mental health professional files the affidavit and the service recipient does not respond to the order to appear, then the court shall order the person taken into custody and taken to the qualified mental health professional (outpatient service provider) for assessment of non-compliance.

### 33-6-615

(1) If the qualified mental health professional determines that:

- (A) The person is out of compliance without good cause, and
- (B)
  - (i) The person cannot be put immediately in compliance with the treatment plan, or
  - (ii) The person cannot be expected to stay in compliance without further hospitalization, or
  - (iii) the person does not comply immediately with the treatment plan,

THEN

- (2) The qualified mental health professional shall contact the sheriff, AND
- (3) The sheriff shall immediately transport the person to the hospital from which the person was discharged, AND
- (4) The hospital shall admit the person and give notice of the temporary recommitment and that a hearing under § 33-6-610 will be held to the person, the person's attorney, legal guardian, legal custodian, conservator, and spouse or nearest relative, to the qualified mental health professional, to the court which ordered the temporary recommitment of the person, and to the court where the hospital is located that has the same jurisdiction as the recommitting court.

### **Reviewing the Need for continued OP treatment**

The treating professional can, at any time, change the MOT plan to accommodate the needs of the person obligated to comply.

**It is the responsibility of the MOT provider to review the plan within 6 months from the date of discharge from the RMHI and every six months thereafter to determine if the person continues to meet criteria for MOT under Title 33, Chapter 6, Part 6, Tenn. Code Ann.**

If the treatment professional **does not** renew the obligation to participate in outpatient treatment under Title 33, Chapter 6, Part 6, Tenn. Code Ann., the person's obligation to participate **terminates** six months after discharge from the RMHI or the last renewal of the obligation.

**If** the treating professional determines that MOT is still required, the plan may be renewed for another six months. The person, the person's attorney, the hospital which discharged the person, and the committing court shall be notified of the decision and the basis for it and of the person's right to request a hearing in the committing court.

**If** the person files a written request for a hearing with the committing court, within thirty days after receipt of the notice, the court shall hold a hearing to review the decision of the treating professional. If after a hearing the court does not determine the obligation to participate in outpatient treatment to be renewed, the patient is discharged from the outpatient treatment obligation.

### **Termination of the MOT Plan**

Under Title 33, Chapter 6, Part 6, Tenn. Code Ann., the treating professional may, at any time, terminate the person's MOT plan if it is determined that:

- the person is likely to participate in outpatient treatment without being legally obligated to do so, OR
- the person no longer needs treatment for the mental illness.

The treating professional shall notify the committing court and the RMHI that discharged the person of the decision to terminate the person's obligation to comply with outpatient treatment.

## **Mandatory Outpatient Treatment T.C.A. § 33-7-303(b) (Forensic MOT)**

### **Forensic MOT**

This MOT only applies to those persons who have been acquitted on a criminal charge on a verdict of Not Guilty by Reason of Insanity, hospitalized under T.C.A. § 33-7-303(a) and have been found not committable but the person's condition is likely to deteriorate to the point that the person will pose a substantial likelihood of serious harm unless treatment is continued.

The court with criminal jurisdiction may order the person to participate in outpatient treatment under T.C.A. § 33-7-303(b). **The person is legally obligated to comply until the court terminates the plan.**

### **Noncompliance**

If the person who is obligated to comply with outpatient treatment under T.C.A. § 33-7-303(b) does not comply with the treatment plan, the treating professional shall notify the district attorney general of the noncompliance. The district attorney general may move the criminal court to cite the person for civil or criminal contempt for the noncompliance and may file a complaint in the criminal court under the provisions of Title 33, Chapter 6, Part 5, Tenn. Code Ann.

If the criminal court finds that the person meets commitment standards under Title 33, Chapter 6, Part 5, Tenn. Code Ann., the court shall enter an order of judicial hospitalization. If the court further finds that the person is substantially likely to injure himself or others if he is not treated on a forensic services unit and that treatment in such a unit is in the person's best interests, the person shall be transferred into the custody of the commissioner at a forensic services unit designated by the commissioner. If the court does not determine that the person is committable, the person may be jailed for contempt of court. The court has no authority to order a new forensic evaluation for the person who has been found in contempt of court.

The person who is obligated to comply with outpatient treatment under T.C.A. § 33-7-303(b) and meets emergency commitment requirements may be hospitalized under Title 33, Chapter 6, Part 4, Tenn. Code Ann. The RMHI shall notify the district attorney general and the MOT provider as soon as possible.

### **Reviewing the need for OP treatment**

The treating professional shall file a report with the district attorney general every six-(6) months to report the person's continuing need for treatment. The court shall terminate the person's obligation to participate in outpatient treatment when it determines that the person is no longer subject to such an obligation.